

**BOARD OF SELECTMEN  
MEETING MINUTES  
March 3, 2003**

**PRESENT:** BRIAN MCDONALD, CHAIRMAN; DOUGLAS R. COOK, Co CHAIRMAN; JONATHAN M. WALLACE, SELECTMAN; THOMAS C. REYNOLDS JR., SELECTMAN; DAVID BOUGHER, SELECTMAN.

**GUEST:** Frank Campana, Margo McLeod, Ginger Esenwine, Forrest Esenwine, Sherry Butt Dunham, Steve Flanders, Bill Weber.

The Selectmen's Meeting was held at the Town Office Building. Chairman McDonald commenced the meeting at 6:30 p.m.

Chairman McDonald asked that everyone stand for the pledge of allegiance.

**1. PUBLIC PARTICIPATION**

Margo McLeod – Ms. McLeod went before the board to discuss the lawn care bids. Ms. McLeod expressed dissatisfaction with how the board handled the bid specifications. She went on to state that she did not receive a copy of the bid specifications and she was concerned with mowing before Memorial Day. Selectman Cook responded by stating that he was confused with the concern due to the fact that Matt Pelletier who is a member of the Cemetery Trustees, was approached by the Board of Selectmen to draw up the specifications. The board felt that the Cemeteries have always been well kept and felt that town portion of the lawn care bid would benefit from the same upkeep. Ms. McLeod expressed concern regarding the Board of Selectmen controlling the process. Selectman Cook then stated that the Cemetery Trustees drew up the specifications for the bid and he believed that three bids were received and would be opened at this meeting and based on the recommendation of the Cemetery Trustees, one would be chosen. Chairman McDonald then reiterated the fact that the board wanted the town to benefit from the way the cemeteries have been handled rather than the previous way the town lawns have been maintained. Chairman McDonald went on to state that the board had sat down with members of the Cemetery Trustees in a nonpublic session to discuss the lawn care bid. Ms. McLeod then stated that she knew of someone who inquired about the lawn care specifications and was unable to obtain the information. Ms. McLeod then presented the board with a copy of minutes in which it stated that the town would be responsible for one hundred percent of the

lawn care. Chairman McDonald then stated that he was under the impression that they were only one hundred percent responsible for the release of funds. In attempts to clarify the situation, Chairman McDonald then asked Ms. McLeod if the problem was that part of the funds comes from Cemetery Trustee funds and only Cemetery Trustees can release those funds. Ms. McLeod responded, yes. Chairman McDonald then stated that it was his understanding that the board will only be responsible for the release of the funds.

## **2. NEW BID SUBMISSION POLICY**

Selectman Cook explained that the new bid submission policy will be put in writing and is such that whenever something is put out to bid it be date certain, and possibly timed to be opened at Monday night meetings. The bids will come in the same way they previously did and when the public meeting is live the bids can be read, making sure they have a time and date stamp on them and they were received properly. Then the bids are opened and announced and sent to the respective board for their input if they are not present at the meeting. Selectman Reynolds then stated that the Fire Department controls their own bids and opens them publicly at their meetings. Board stated there will be a written policy to this effect. Question to the board from Ms. Butt Dunham as to whether this policy encompasses all town departments and requested a copy of the policy once prepared. Board stated this will include the police department and will provide Ms. Butt Dunham with copy of policy.

## **3. CATV – Discussion with Steve Flanders**

Chairman McDonald addressed Steve Flanders in regards to discussions the board has had with chairperson of the Cable Committee. Selectman Wallace questioned Mr. Flanders as to whether he would like a nonpublic session, to which Mr. Flanders replied he would like a nonpublic session.

## **4. NONPUBLIC SESSION**

Selectman Wallace made a motion that the Board of Selectmen enter into Nonpublic Session at 7:06 p.m. pursuant to RSA 91-A:3 II (c). Seconded by Chairman McDonald. A roll call vote was taken. Chairman McDonald – yes; Selectman Wallace – yes; Selectman Cook – yes; Selectman Reynolds – yes; Selectman Bougher – yes. Motion passed unanimously. Session involving conversation with Mr. Steve Flanders regarding Cable Committee.

In Attendance: Chairman McDonald, Selectman Cook, Selectman Wallace, Selectman Reynolds, Selectman Bougher, Mr. Steve Flanders. Chairman McDonald made motion

to come out of nonpublic session at 7:20 p.m. Seconded by Selectman Bougher. A roll call vote was taken. Chairman McDonald – yes; Selectman Wallace – yes; Selectman Cook – yes; Selectman Reynolds – yes; Selectman Bougher – yes. Motion passed unanimously. Selectman Cook then made motion to seal and restrict. Seconded by Selectman Wallace. A roll call vote was taken. Chairman McDonald – yes; Selectman Wallace – yes; Selectman Cook – yes; Selectman Reynolds – yes; Selectman Bougher – yes. Motion passed unanimously.

**5. DISCRETINARY EASEMENT FOR GOLF COURSE** – Discussion with Mr. Bill Weber.

Mr. Weber began by addressing the board and providing the board with a packet of information. Mr. Weber then showed the board a visionary graphic for the golf course. Mr. Weber stated that when they met before the board last year he felt there was positive interest. Stated they are looking to develop 57 acres, 52 of which for the golf course. Stated that they have developed some of the remaining five acres and have been approved by the Planning Board for three more buildings and did not know if that would happen in the near future. Also stated they have been approved for a driving range and plan to start as soon as the snow breaks. Then Mr. Weber stated that they have come in front of the board to develop the 52 acres. Stated that if they should be taxed at a rate consistent with the development several things would happen, the first being it would be cost prohibitive, the second being he believes they are not creating any distress to the town. Mr. Weber then went on to state their request is based on the statute RSA 79-C:3 which Mr. Weber summarized as being a development that keeps in the spirit of open space and does not impact the town in negative ways and preserves of land for outdoor recreation. Went on to state that in a year the land will be pretty much the same as it is now only greener and thinks it is a positive impact rather than a negative one. Stated that the wetlands on the property are not being touched with the exception of two crossings for golf carts and there will be no golfing allowed in the wet lands. Stated that the current use statute allows anyone to walk on the property, and that will be respected, but statute also states he does not have to allow anyone to damage the property in its current state or as a golf course. Also stated that there was some concern that development would run out wildlife and feels that is not so, there is an abundance of wildlife on the property. Stated that they have to meet at least one of the criteria listed in the statute and he feels they meet at least three, at a stretch, five. Stated that the easement is for ten years. At the end of ten years he will need to come back and apply again. Mr. Weber stated he did not find anything in the statute as to whether the tax rate can be negotiated. If he is given one tax rate now, he doesn't find anything that states that rate can or can not be renegotiated in five years, for example, when the business is up and running. Selectman Wallace stated that the board will need to consult with town

attorney on this matter and make sure everything is in order. Mr. Weber stated he is in complete agreement of that, to which Selectman Wallace stated Mr. Weber may not be because he is going to ask that Mr. Weber pay a portion of the expense incurred. Mr. Weber then stated he is willing to accept responsibility for entire fee that is incurred. Mr. Weber then went on to state that he believes the problem is going to lie with the assessment of the land. Selectman Cook stated that an appraisal will be needed. Mr. Weber informed the board that he has tried for a year to find someone to appraise the property and finally found someone out of Kentucky that is willing to put a price on it. Mr. Weber and board discussed the fact that the range for taxation is determined by one end of the range being current use value, which is \$64,690.00 for property in question, and the other end of the range being determined by multiplying 75% of the lands fair market value. Mr. Weber stated he does not want to spend an additional fifteen thousand dollars to get another appraisal, and has come here hoping they can come up with a number between them. Suggested maybe bringing in a real estate agent to determine fair market value. Mr. Weber then referred to other golf courses in the area and informed the board that they put a value of \$22,500 and \$22,050 per hole. Stated what he has done is put a price of \$23,000 for each intended hole and multiplied it by 75% and came up with a value of \$163,000 fair market value. Mr. Weber stated that he needs a number in order to determine if this is going to work. Stated that this is a big investment and will have to carry it for a 1 ½ to 2 years before it is up and running and is currently being taxed \$1,244.00 per acre. Selectman Bougher questioned whether the lowest rate they can request is current value and all agreed yes, that is the lowest end of the range. Selectman Reynolds proposed that the rate stay at current value for five years and go with the formula after that, all to be determined on the front end. Mr. Weber stated that five years current rate seems reasonable, and will know in that time if the business is going to make it or not. Selectman Bougher stated he was in agreement that the board go with five years current value and the formula after that. Also stated that the town attorney will have to let them know if this is possible. Chairman McDonald questioned Mr. Weber as to what he envisioned for employment. Mr. Weber responded six to ten people in the summer, maybe three full time. Stated that the golf course will be geared towards students, that he would rather hire three part time students than one full time employee. Chairman McDonald then questioned Mr. Weber about the club house and would it include a restaurant. Mr. Weber responded by stating that he plans a small club house for the time being, no restaurant. In the future hopefully a function hall and also rest stations along the golf course. Chairman McDonald then stated that a function hall would also increase employment. Selectman Reynolds commented that hopefully this will be the start of other businesses down the road especially if the board shows they are easy to work with. Mr. Weber stated that in the future he may pursue a soft liquor license. Board of Selectman made the decision to forward information to town attorney. Chairman McDonald stated that he supports the five years current use

tax rate and he is looking for positive employment impact for the town. Went on to state that he may be persuaded to go ten years current use rate. Stated he wants to stress yes, we can give a tax break to a golf course because state RSA dictates it. Stated this is a good opportunity for future growth of the town. Chairman McDonald stated there was one concern that was brought up regarding the use of the brook for sprinkler system. Mr. Weber stated that the brook would absolutely not be used and can not be used for a water source. Stated he did not know if he previously misspoke regarding this matter but wanted it to be very clear that the water from the brook will not be used. Selectman Wallace stated that he is in agreement with Chairman McDonald and the he too could be talked into ten years at current value. Both Selectman Bougher and Selectman Reynolds agreed. Mr. Weber then thanked the board and stated he was going away from this pleased and with the understanding of five years current use, possibly ten.

## **6. LAWN CARE BIDS**

Selectman Cook made motion to open the lawn care bids and deal with the fire cisterns as necessary. Seconded by Selectmen Bougher. A roll call vote was taken. Chairman McDonald – yes; Selectman Wallace – yes; Selectman Cook – yes; Selectman Reynolds – yes; Selectman Bougher – yes. Motion passed unanimously. Chairman McDonald stated that first bid was from ML Enterprises, dated and stamped February 27, 2003 and was in the amount of \$50,566.00. Second bid was from The Cutting Blade Lawn Care dated and stamped February 20, 2003 in the amount of \$31,120.00 and for the Three Friends Cemetery, \$1,350 and any additional mowing requested for a fee of \$250.00. The third bid was from Keith Peirce dated and stamped February 27, 2003 in the amount of \$21,000 and for the Three Friends Cemetery, \$1,000.00. Chairman McDonald then asked Mr. Peirce what was included in the cost for the Three Friends Cemetery, to which Mr. Peirce stated he will do additional mowing at no cost. Selectman Wallace asked Mr. Peirce regarding the Three Friends Cemetery if he is stating he will cut as many times as they request for no cost, to which Mr. Peirce stated he would. Chairman McDonald made motion to accept Mr. Keith Peirce's bid for \$2,200.00 total for the lawn care for the Town of Weare to include Three Friends Cemetery. Seconded by Selectman Wallace. Selectman Bougher stated the Cemetery Trustees should be consulted. Selectman Reynolds agreed. A roll call vote was taken. Chairman McDonald – yes; Selectman Cook – yes; Selectman Wallace – yes; Selectman Bougher- no; Selectman Reynolds – no. Motion passed 3 in favor; 2 against. Chairman McDonald stated there is already a lot on the agenda for next week.

## **7. OLD BUSINESS**

Chairman McDonald addressed letter from LCHIP requesting Board of Selectman to endorse letter stating that the board urges the State of New Hampshire General Court to maintain funding for land and community heritage investment program in the next bi-annual budget. Selectman Bougher made motion to enter letter into the record. Seconded by Selectman Reynolds. A roll call vote was taken. Chairman McDonald – yes; Selectman Wallace – yes; Selectman Cook – yes; Selectman Reynolds – yes; Selectman Bougher – yes. Motion passed unanimously.

Chairman McDonald then made motion to approve weekly meeting minutes for December 2<sup>nd</sup>, 9<sup>th</sup>, 16<sup>th</sup>, 23<sup>rd</sup>, and 30<sup>th</sup> 2002. Seconded by Selectman Bougher. A roll call vote was taken. Chairman McDonald – yes; Selectman Wallace – yes; Selectman Cook – abstain; Selectman Reynolds – yes; Selectman Bougher – yes. Motion passed 4 in favor; 1 abstention.

Selectman Bougher then stated he would like to comment that the editorial in the Union Leader regarding Barrington Selectman was good, but did not think the passion was there as it is when writing about the Town of Weare.

Selectman Wallace then stated he would like to discuss the issue of bid submission, and the fact that Mr. Walter Bohlin came before the board to suggest that the bidding process with Hemlock Drive was not done correctly. Issue concerned a former employee of the Town and her boyfriend at that time. Selectman Wallace stated he contacted the attorney as requested, and did some investigation into the issue. Went on to state that he feels there are some concerns with the way it was handled. Stated he received e-mail from the Town Clerk and Tax Collector which he summarized as stating that nothing wrong had happened and everything was done properly. Also, the bids were sent into the Tax Collector's office because it was known that this employee had a conflict of interest. The day the bids were opened the Tax Collector, Town Clerk, and former employee all stood together in the Town Clerks office and opened the bids. Selectman Wallace stated that after receiving the e-mails he went down to the office to discuss the situation. Selectman Wallace also stated that the Town Clerk had stated there had been a lot of calls from the public concerning this matter. Selectman Wallace then stated that he went down to the office to look at the two bids. Stated that one envelope was mailed to the town via the US Postal Service and stamped with the date and time received. The other envelope was not mailed to the office and appears to hand delivered with no mailing address. Selectman Wallace stated that it is obvious from the letter, that the printer which was used is different from the printer on the envelope. Stated he then went down to speak with the Tax Collector in private and placed the first envelope down with the date and time to which the Tax Collector agreed was correct and had stamped it when it arrived. Then he placed the second envelope down and asked why it was not done for this one. Selectman Wallace stated

that Tax Collector had no response to this question. Selectman Wallace then stated he thanked the Tax Collector, and then questioned the Town Clerk in the same fashion to which the Town Clerk had no response as to why one of the bids had not been stamped. Selectman Wallace stated that based upon the tone of their e-mail he spoke with both of them. He stated to them that they could now understand why someone who is looking at public records would look at these papers and envelopes and think that procedures were not followed and there may be a reason to request the Board of Selectman to look into this. To which Selectman Wallace stated both parties agreed. Selectman Wallace stated that next he contacted the town attorney. The attorney's letter stated a brief overview of the situation as she understood it and stated that as a general rule absent or competitive bidding statutes, cities and towns are free to exercise discretion in determining what property to sell and how to sell it. However, a municipality's discretion in matters concerning the sale of public property even absent of statute must be bounded by notions of fairness in order that the public interest and public confidence in government actions be upheld. In considering this matter the Selectman should also consider the general conflict of interest statute of New Hampshire RSA 95:1. Selectman Wallace then stated that what he has come away with in this instance is that the procedure was not done properly and more than one person could be blamed. And he could certainly see why someone looking at the information today could question it's integrity. Also stated that it is obvious that one bid was mailed and one was hand delivered and there is a discrepancy because both e-mails he received stated that all bids were mailed in. Stated that these are the kinds of discrepancies that make people wonder what is going on. Stated that the former employee did not handle the process well, and the Tax Collector should have stamped the envelope. Selectman Wallace went on to stated that there is no question that the person who got the property paid the higher price so the town has not suffered. Selectman Cook than stated that a resident of the town was discouraged from bidding on the property and may have bid higher. Selectman Wallace asked Selectman Cook if there is a written statement to the effect, to which Selectman Cook replied there is nothing in writing, only a verbal statement that was made to him. Chairman McDonald than stated that it is obvious that the procedure was not done properly which led them to creating the new bid submission policy to prevent this from happening in the future. Also stated that all three employees were present at the opening of the bids and he is satisfied. Selectman Cook than stated that he encourages the person bringing the complaint before the board, if not satisfied with the board's decision, to continue to pursue it. Selectman Wallace then stated that if this gentleman wants to continue this further he has the option to request that the Attorney General investigate this matter. Selectman Wallace then stated with regards to this same matter he would like to discuss the e-mails from the Tax Collector and Town Clerk. Selectman Wallace then asked Ms. Butt Dunham if she received copies of the e-mails and she stated that she had, to which Selectman Wallace then stated it

was public knowledge. Selectman Wallace stated that some comments on the e-mails that he received bothered him. Stated that the Town Clerk and the Tax Collector should not be making any assumptions regarding business before the Board of Selectmen. Stated Tax Collector ended e-mail with the comment that nothing about the process was handled incorrectly and that the timing of this accusation is appalling to say the least. Selectman Wallace went on to state that a lot of opinions are flowing out of this office from numerous people. Stated he takes exception to the Tax Collector's insinuation that this was done by this resident for political purposes. He does not see how anyone can look at the information and not come to the same conclusion, especially when the Tax Collector when confronted, could not justify it herself. Stated that the Tax Collector stated that the bids came directly from the mail, which we now know is not true. Selectman Wallace then addressed the issue of the Town Clerk's e-mail. Stated that the Town Clerk began e-mail with the statement that she has received a lot of calls. Selectman Wallace stated he does not think it is the business of the Town Clerk to deal with calls pertaining to the Board of Selectman, and does not know what messages were given out. Stated that calls should be transferred upstairs to the Selectmen's Office. Selectman Wallace then stated that this office is out of control. Stated he was glad to see they are looking into their administrative coordinator position tonight because he feel it is imperative to fill that position. Selectman Wallace then stated that when you come through that door, leave the politics outside, and just do your Town Clerk duties, do your Tax Collector duties, do your building department duties, do your assessing duties. Stated there is enough scuttlebutt going around this town for the next ten thousand years without any of it coming out of this office. Selectman Cook stated that he is in agreement with Selectman Wallace. Selectman Bougher stated that he agrees that the Town Clerk should not be taking their calls, that they should be directed upstairs. Went on to state that he had a friendly discussion with the Tax Collector after receiving the e-mail and stated that it would have been much better if only the last line was omitted, and the Tax Collector was in agreement.

Selectman Wallace then stated that he hoped the board will continue with the business betterment program and see if there are other ways they can do things for businesses to help them out and encourage businesses in the community. Went on to state there are two main points you need, one is to have someone that is willing to make the investment which means you need to be friendly to them. And secondly, you need to reach out to residents to have them support local businesses.

Selectman Cook then addressed the board regarding a legal services bill for a personnel issue. Board discussed new personnel policy. Selectman Cook stated that the personnel policy needs to be completed.



Selectman Cook then addressed the board concerning the trustee's right to know request. Stated that he was in the office when they were provided with the information they requested and he still does not know what they are looking for. Stated that after a brief amount of time they left and did not give any indication if they had what they needed or if they were going to be back. Stated that he was confused because he assumed they would come in and copy all the invoices, and they did make some copies, and for some reason they were using the Board of Selectman copy code. Went on to state he felt this was a fishing expedition and that the board has still not received their money. Selectman Wallace stated that the lawyers made it very clear that this was crazy. Also stated that it is extremely frustrating to see government work this way.

Selectman Cook then addressed the board regarding a letter received concerning All Seasons Campground and a request to enter the property to drop off a trailer. Selectman Cook stated he felt they should be able to use their property to recreate. Stated his feeling is this is a particularly good winter, and these people should be able to take advantage of it. Selectman Bougher stated that the residents agreed to the bi-laws. Selectman Wallace stated there is a process to change the bi-laws with the Planning Board and they haven't decided to go that route. Selectman Bougher then stated if they agree to let one person do this then everyone will want to do it and they may as well ignore the bi-laws. Selectman Cook made motion to allow access to the campground on the weekends of March 2003. Seconded by Selectman Reynolds. A roll call vote was taken. Chairman McDonald – no; Selectman Wallace – no; Selectman Cook – yes; Selectman Reynolds – no; Selectman Bougher – no. Motion failed with 1 in favor; 4 against.

Selectman Cook then addressed the board regarding a land swap. Land swap involves resident who owns a portion of the property now occupied by Fire Department. Wants to swap this piece of land for property on Mountain Road. Selectman Cook then stated board previously offered \$10,000.00 for that portion of land rather than the Mountain Rd. property. Selectman Cook then informed the board that resident now is willing to swap the properties in question plus give the town \$10,000.00. Selectman Cook then questioned board as to whom would pay any fees incurred for a lot line adjustment. Board agreed they would pay any fees incurred. Selectman Cook then requested Chairman McDonald make sure a letter went out with an offer for \$10,000.00 plus any fees and expenses incurred for the lot line adjustment. Selectman Cook asked the board if anyone was handling the Town Hall floor situation. Stated that Mike Peletier would like to take a look at the floor himself. Board agreed that Mr. Peletier is welcome to go over and look at floor.

Selectman Cook then stated to the public that the mailers to voters being sent Tuesday the 4<sup>th</sup>. Wanted voters to remember that voting is Tuesday, March 11, 2003. Stated there will be a call in show on Monday, March 10<sup>th</sup>. Board expressed desire for public to call, e-mail, or come in and see them with any questions they may have. Also, to take advantage of absentee ballots if not able to vote in person.

Chairman McDonald stated he received a call from former town custodian, Bob Noss, offering his services in showing new custodian around. Chairman McDonald expressed his thanks to Mr. Noss.

## **8. NEW BUSINESS**

Chairman McDonald moved for the Board of Selectman to sign manifest and order the Treasurer to sign checks dated March 6, 2003 for a total of \$20,956.82 for Accounts Payable, \$22,602.48 for Gross Payrolls, for a grand total of \$43,559.30, and voided checks totaling \$799.18. Seconded by Selectman Reynolds. A roll call vote was taken. Chairman McDonald- yes; Selectman Cook- yes; Selectman Wallace- yes; Selectman Reynolds- yes; Selectman Bougher - yes. Motion passed unanimously.

## **9. NONPUBLIC SESSION**

Chairman McDonald made motion to enter Nonpublic Session pursuant to RSA 91-A:3 II (a) for the purpose of hiring administrative coordinator and part time custodian. Seconded by Selectman Wallace. A roll call vote was taken. Chairman McDonald- yes; Co Chairman Cook- yes; Selectman Wallace- yes; Selectman Reynolds- yes; Selectman Bougher - yes. Motion passed unanimously.

## **10. ADJOURNMENT**

A True Record

---

Kelly Bumpus, Recording Secretary